



**COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL**

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ATTORNEY GENERAL

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August 24, 2016

RE: Distribution of written information explaining the Open Meetings and Open Records Acts and proper records retention and management pursuant to KRS 15.257 and 171.223

Dear Superintendents of Public School Districts and School District Attorneys,

KRS 15.257 and KRS 171.223 require the Office of the Attorney General to distribute to all superintendents of public school districts and school district attorneys, within ninety days of the effective date of any legislation amending the provisions of the Open Meetings Act or the Open Records Act, written information prepared by my office that explains the procedural and substantive provisions of the Open Meetings Act and the Open Records Act along with information prepared by the Department for Libraries and Archives concerning proper retention and management of public records. The goal of this legislation is to assist the public officials of Kentucky in complying with the laws relating to open meetings and open records as well as records management and retention. The referenced written information, entitled "Your Duty Under the Law" and "Managing Government Records," is attached hereto.

On July 15, 2016, HB 132, amending the Open Records Act took effect. The Open Records Act now includes a definition of "booking photographs and photographic record of inmate" at KRS 61.870(9). The term is defined as "a photograph or image of an individual generated by law enforcement for identification purposes when the individual is booked into a detention facility as defined in KRS 520.010 or photograph and image taken pursuant to KRS 196.099." This definition corresponds to KRS 61.8746, which prohibits the use of booking photographs or a photograph of an inmate taken pursuant to KRS 196.099 in a print publication or on a website if removal of the photograph from the publication or website requires the person who was photographed to pay a fee. It also creates a right of action for injunctive or other appropriate relief in circuit court for any person who was required to pay a fee for removal of a booking photograph or official inmate photograph from a publication or website. Additionally, it establishes monetary damage for these civil actions. This update reflects these changes and provides a review of both laws.

Pursuant to KRS 160.395(1), superintendents of public school districts must distribute "Your Duty Under the Law" and "Managing Government Records" to each elected school board member and each school-based decision making council member, as designated in KRS 160.345(2), within their respective districts. Superintendents must distribute the written information to current board and council members within sixty days of receipt of the newly

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revised information from the Attorney General, and to newly elected or appointed board and council members within sixty days of their election or appointment. The information may be distributed by electronic means.

Pursuant to KRS 160.395(2), superintendents must obtain signed proof from each school board member and school council member that he or she received "Your Duty Under the Law" and "Managing Government Records." A "Proof of Receipt" form is attached. Superintendents must also certify to the Office of the Attorney General that the written information has been distributed as required. A "Certificate of Distribution" is also attached. Please return the completed "Certificate of Distribution" to:

Leigh Van Hooser  
Office of the Attorney General  
700 Capital Avenue  
Frankfort, KY 40601

We look forward to return receipt of the "Certificates of Distribution" *only* from you no later than ninety days after receipt of this mailing. Do not return the signed "Proof of Receipt" forms to the Office of the Attorney General. These forms constitute the signed proof which your agency is required to maintain under the terms of KRS 160.395(2).

We are hopeful that the materials we are providing will promote the goals of KRS 15.257 and 171.223 and enhance your understanding of these laws. Please ensure that each *current* elected or appointed official or member receives a copy of these updated brochures and that each current elected or appointed official or member returns a signed copy of the "Proof of Receipt" to you. Please remember that this is an ongoing statutory duty and that it must be discharged on a continuing basis by providing the brochures and "Proof of Receipt" to all newly elected or appointed officials or members within sixty days of their election or appointment.

Sincerely,

A handwritten signature in cursive script that reads "Andy Beshear".

Andy Beshear  
Attorney General

Enclosures:

1. Proof of Receipt
2. Certificate of Distribution
3. Your Duty Under the Law – The Kentucky Open Records and Open Meetings Act
4. Managing Government Records: An Introduction to Kentucky's Public Records Management Law